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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/757,744	01/15/2004	Michael James Pratt	9279.79	4294

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EXAMINER

WEAVER, SUE A

ART UNIT

PAPER NUMBER

3727

DATE MAILED: 03/08/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

JW

<b>Office Action Summary</b>	<b>Application No.</b> 10/757,744	<b>Applicant(s)</b> PRATT ET AL.	
	<b>Examiner</b> Sue A. Weaver	<b>Art Unit</b> 3727	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 27 January 2005.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1,3-15 and 17-31 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1,5,7-9,12-15,17,18,21,23-28,30 and 31 is/are rejected.
- 7) ☒ Claim(s) 3,4,6,10,11,19,20,22 and 29 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)  | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                   | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

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1. The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

Claims 26 and thus 27 and 30 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claim 26 recites the limitation "said front panel member" in lines 2 and 3. There is insufficient antecedent basis for this limitation in the claim.

Moreover "an opening to said pocket member" in claim 30 appears to be a double inclusion of "a pocket member with an opening" in claim 25.

2. Claims 1, 5, 7, 15 and 23 are rejected under 35 U.S.C. 103(a) as being unpatentable over Henderson, of record in view of Dalloz.

Member 8 of Henderson defines a pocket attached to a bag, as described. The pocket is considered to have front, sides, back (1) and a bottom as shown and has a biasing means at 14 at the top of the pocket. To have secured the elastic biasing means in the manner taught by Dalloz such that it is secured to the pocket and external surface of the bag would have been obvious to one having ordinary skill in the art. Note that the loops of material resulting from the elastic are considered to define a grip or handle, insofar as any structure is set forth, for expanding the top of the pocket.

3. Claims 8, 12, 13, 25 and 26 are rejected under 35 U.S.C. 103(a) as being unpatentable over Dalloz.

Note the pocket 3 on the external surface of the bag. The elastic (14) forms the resilient member while the looped fabric inherently defines a grip or handle to open the pocket.

4. Claim 9 is rejected under 35 U.S.C. 103(a) as being unpatentable over the reference as applied to claim 8 above, and further in view of Tuerschmann et al, of record.

To have merely added vent apertures to the pocket for venting moisture would have been obvious in view of such teaching by Tuerschmann et al.

5. Claim 14 is rejected under 35 U.S.C. 103(a) as being unpatentable over the reference as applied to claim 8 above, and further in view of G. Johnson '465.

To have formed multiple pockets by extending the elastic member and fabric beyond the ends of one pocket when fastening it to the bag so that the clothes pins might be organized into separate pockets according to type would have been obvious in view of G. Johnson teaching such pocket construction in a bag. Note that with multiple pockets the elastic would inherently extend beyond the top and sides of the pocket.

6. Claims 15, 17, 18, 21, 24, 25-27, 30 and 31 rejected under 35 U.S.C. 103(a) as being unpatentable over Bieber et al, of record, in view of T. Johnson '971.

The examiner does not agree with applicants' argument regarding a bag as being inherently flexible. As the art of record reveals there are rigid as well as flexible bags and rigid as well as flexible cases. If applicants wish to restrict the bag to a flexible one they will have to claim it as being flexible.

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However for the sake of argument, T. Johnson teaches a bag or case which is made of leather. To have made the case of Bieber et al of leather as a bag in the manner taught by T. Johnson would have been obvious to one having ordinary skill in the art. Furthermore it may be noted that the pocket construction although on the interior of the lid of Bieber et al is still located on the outer housing as currently claimed in claim 15.

7. Claims 23 and 28 rejected under 35 U.S.C. 103(a) as being unpatentable over the references as applied to claims 15 and 25 above, and further in view of Alter.

To have provided a grip tab or handle to open the biased pocket would have been obvious in view of such teaching by Alter at 16 and 17.

8. Claims 3, 4, 6, 10, 11, 19, 20, 22 and 29 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

9. Applicant's arguments, see pages 13 and 15 of the amendment, filed 1/27/05, with respect to the objections to the drawings, disclosure and rejections of claims 3, 4, 6, 10, 11 and 14 under 35 USC 112 have been fully considered and are persuasive. The objections and rejections of the drawings, disclosure and claims have been withdrawn.

Applicant's arguments with respect to claims 1, 5, 7-9, 13-15, 17, 18, 21, 23 and 24 have been considered but are moot in view of the new ground(s) of rejection. Claims 2 and 16 have been canceled.

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The examiner apologizes for missing claims 25-31. It is an unfortunate consequence of not being able to work with an original file anymore.

10. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Chen shows a biased pocket for a golf bag. Hoffman et al and Kikas et al show other bags with biased pockets. Monaco shows a soft case. Kim, Wood, Bowen, Brady, Kirchhoff, Jr. and Ackerfeldt et al show rigid bag constructions.

11. The following are suggested formats for either a Certificate of Mailing or Certificate of Transmission under 37 CFR 1.8(a). The certification may be included with all correspondence concerning this application or proceeding to establish a date of mailing or transmission under 37 CFR 1.8(a). Proper use of this procedure will result in such communication being considered as timely if the established date is within the required period for reply. The Certificate should be signed by the individual actually depositing or transmitting the correspondence or by an individual who, upon information and belief, expects the correspondence to be mailed or transmitted in the normal course of business by another no later than the date indicated.

### **Certificate of Mailing**

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Please refer to 37 CFR 1.6(d) and 1.8(a)(2) for filing limitations concerning facsimile transmissions and mailing, respectively.

12. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Sue A. Weaver whose telephone number is 571 272-4548. The examiner can normally be reached on Tuesday-Friday.

— The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

SW

  
Sue A. Weaver  
Primary Examiner